

Leonard F. Joy  
Executive Director

Southern District of New York  
John J. Byrnes  
Attorney-in-Charge

August 11, 2008

**BY HAND**

Honorable Judge Denise L. Cote  
United States District Judge  
Southern District of New York  
500 Pearl St - Room 1040  
New York, NY 10007

**Re: U.S. v. Kendy Hernandez  
08 Cr. 66 (DLC)**

Dear Judge Cote:

I write in advance of sentencing in the above-captioned case, which is currently scheduled for September 4, 2008 at 11:30 a.m. Attached to this submission are numerous letters written by friends and family members in support of Mr. Kendy Hernandez, requesting leniency on his behalf. See Exhibits A-P. For the reasons set forth below, I ask the Court to impose a sentence no greater than forty-eight months, the bottom of the advisory guideline range, as set forth in the plea agreement.

**A sentence of forty-eight months is sufficient punishment in this case.**

Mr. Kendy Hernandez is a 23 year-old young man who has fully accepted responsibility for his offense conduct. Although Mr. Hernandez had initially been charged with a single count of bank fraud and one count of 18 U.S.C. §1028A, he asked that Counts II and III be added to his indictment. Mr. Hernandez made this request and agreed to plead guilty to two additional counts because he wanted to accept responsibility for all of his offenses so that he could put his criminal past behind him and move forward.

Although still a young man himself, Mr. Hernandez is a father to four young children, who rely on his financial support. He first became a father when he was only 16 years old. After

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his son's birth, Mr. Hernandez left school in the 11th grade to support his child. (PSR, ¶61). As his stepfather wrote in his letter to the Court, Mr. Hernandez initially supported his family working as a mechanic and in various supermarkets. See Exhibit A. He also worked as a lifeguard for the New York City Parks Department. (PSR, ¶69). In 2004, with two additional children to support, Mr. Hernandez decided to open a travel agency business with a partner, Raul Acosta. It was through this business that Mr. Hernandez was introduced to individuals who offered him the temptation of "easy money" through criminal activity.

Mr. Hernandez deeply regrets giving in to this temptation, and understands that he must be punished for his offenses. In addition, although he has lived legally in this country since the age of nine, Mr. Hernandez also understands that he will be deported to the Dominican Republic after the completion of his sentence. Although it will be difficult for him to leave his many family members who reside in this country, Mr. Hernandez is prepared to make a fresh start in the Dominican Republic.

Mr. Hernandez's father and sister still live in the Dominican Republic and he has already discussed with them the prospect of working together in a family business upon his release from custody. Mr. Hernandez' children, all of whom are United States citizens, do not intend to move to the Dominican Republic with him. However, Mr. Hernandez expects that his children will spend their summers visiting with him in the Dominican Republic.

Mr. Hernandez is an intelligent young man who has earned the respect of his friends and family. As is evident from the many letters written to the Court on his behalf, Mr. Hernandez is a "community-oriented," "[h]elping, kind and gentle" person who is "an asset to the community and his family. . . ." See Exhibits B, C. In her letter to the Court, family friend Ms. Dianna Peralta writes, "Kendy has always been helpful in his community . . . . Kendy is known for helping those in need and looking out for his neighbors. In addition Kendy has four children who are awaiting his return home. At a very young age Kendy has shown to be hard working and to care for his family who need of a father. . ." See Exhibit D. Ms. Peralta asks the Court to recognize the value in Mr. Hernandez admitting his mistakes and "acknowledg[ing] a time for change. Id.

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Many of the letters written in support of Mr. Hernandez ask the Court to be lenient in this case to alleviate the suffering of Mr. Hernandez's family, including his mother and his four young children. In his letter, Mr. Hernandez's brother Yovanni Garcia describes the hardships his family is presently enduring: " . . . everyone in my family is hurt because of what is happ[en]ing, and even hurts me more to see my mother suffer the way she is because of my brother situation. Please send my family home. . . we are all aware that my my brother has learned from his careless mistakes. . . ." See Exhibit E.

Mr. Hernandez is fortunate to have the love and support of a large family and a close group of friends. He has used his time at the MCC to reflect on the very poor choices he has made in the past which have led to his present circumstances. He has made a promise to himself and to his family that he will not disappoint them again, nor will he do anything in the future to cause them to suffer as they are now suffering.

Mr. Hernandez recognizes that his mistakes have serious consequences. In this case, even a sentence at the bottom of the advisory guideline range is almost five times longer than any sentence Mr. Hernandez has previously served. In addition to his sentence, Mr. Hernandez will also suffer the collateral consequence of deportation from the country where he has lived since he was nine years' old.

Mr. Hernandez has learned the hard way that there is no such thing as "easy money." Looking forward, he is still a very young man with many fine qualities. He intends to make his family proud by living up to his potential.

For all these reasons, I ask the Court to impose a sentence no greater than forty-eight months for this non-violent offense. Given all of the circumstances, including Mr. Hernandez's genuine remorse, his age, his lack of any lengthy prior period of incarceration, the many letters of support written on his behalf, and the needs of his family, such a sentence is sufficient punishment in this case.

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Re: U.S. v. Kendy Hernandez  
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer L. Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jennifer L. Brown  
Attorney for **Kendy Hernandez**  
Tel.: (212) 417-8722

cc: Telemachus Kasulis, Esq.  
Assistant United States Attorney

# **EXHIBIT A**

July 17, 2008

Honorable Denise L. Cole  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Dear Honorable Judge Cole,

I Jose Guzman through this letter certify that I know Kendy Hernandez since he was 9 years of age. He is a well educated man. With good moral standards that were taught to him. He is a good son. During the last 12 years I have had an even closer relationship with him by ways of his mother. Kendy and I have bonded like father and son. Kendy has always supported himself by doing odd jobs. He has always worked in a supermarket and or in the auto mechanic field.

If you need any additional information regarding Kendin, please contact me at 646-270-0237.

Sincerely,

Jose Guzman

A handwritten signature in cursive script that reads "Jose Guzman". The signature is written in dark ink and is positioned below the printed name.

# **EXHIBIT B**

To Whom It May Concern:

I am writing to you in regards to Kendy Hernandez. I have known the Hernandez family for several years and know Kendy. I have known Kendy since he was a toddler and have only to be a sweet boy who has grown into a good man. Kendy has always been community oriented which to us means that he participates with his family, goes to church and looks out for those who might be in need. Although Kendy is young he has shown to be hard working and to care for his family. He also comes from a large family and has now created one of his own, who need of him to provide for them.

I have know Kendy's mom Maria Hernandez for very long and know she has taught her son only to be a great man, she yearns for him and for his return to her grandchildren. Please accept my letter on behalf of Kendy in order to guide you to a fair judgment.

Thank you, 



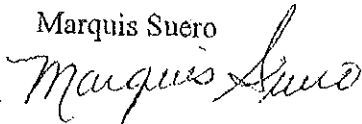
# **EXHIBIT C**

To Whom It May Concern:

I am writing to you in regards to Kendy Hernandez. I am a family friend and neighbor of the Hernandez family. Kendy has always been a quiet guy, who everyone knows. Helping, kind and gentle are a few way to describe Kendy's persona. He has four children who are awaiting his arrival, and who are in need of a father. I cannot express enough how much of an asset to the community and his family Kendy is.

Sincerely

Marquis Suero

A handwritten signature in cursive script that reads "Marquis Suero". The signature is written in dark ink and is positioned below the printed name "Marquis Suero".

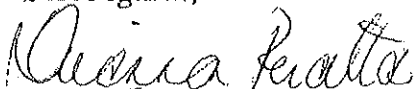
# **EXHIBIT D**

To Whom It May Concern:

I am writing to you in regards to Kendy Hernandez. I have known the Hernandez family for several years and know Kendy to be a warm, gentle and sincere individual. Kendy has always been helpful in his community even if it's not highlighted in the *Times*. Kendy is known for helping those in need and looking out for his neighbors. In addition Kendy has four children who are awaiting his return home. At a very young age Kendy has shown to be hard working and to care for his family who need of a father, setting good examples for them and teaching them right from wrong.

Very few of us are exceptional people who have never committed some sort of infraction, however there are less people who are willing to admit their mistakes and acknowledge a time for change. Kendy has committed himself to his family and friends and therefore committed himself to a path for a better future for his four children, whom he misses very much.

Best regards,

  
Dianna Peralta

# **EXHIBIT E**

**Yovanni Garcia**  
1358 WASHINGTON AVE APT 4E  
BRONX, NEW YORK 10456

**Dear honorable Judge Denise L. Cote:**

My name is Yovanni Garcia, and I am Kendy Hernandez's older brother. Well, Kendy and I grow up together in our native country, the Dominican Republic, and part of our teenage life here in the United States. Since very little he was very smart and curious about things. I still remember up to this day when he used to pick up things practically new that people use to throw away. He uses to bring a lot of old radios and fix them. I always have been a roll model for my brothers especially for him as he follows me in line in the family. He has been in this country for over fifteen years, practically his whole life since he was eight year old. I believe everyone needs a second chance in life and I hope God will answer his call, and mine. With all due respect, I wish you could be a little lenient with my brother. Please send my brother home.

I understand that each individual needs to pay for their offenses, and that includes my brother but my family and I would be forever in debt with you if you can find a way to be a little lenient and give him that second chance in the United States with his family. Life does not always go the way that we plan, and I believe that he knows that now that he is in jail. Life is like a highway, where you might encounter tough roads along the way. My family's life is on that tough road at this stage of our lives. My mother has a saying, while in "Hospital and in jail" you know who are family and friends. The reason that I made this statement is because everyone in my family is hurt because of what is happening, and even hurts me more to see my mother suffer the way she is because of my brother situation. Please send my family home.

At this stage of my family's life, we are all aware that my brother has learned from his careless mistakes and hope you find within you the right words upon the hearing. I thank you in advance for taking the time to read and address my concerns. This year more than ever I have hold myself tight to God, therefore any decision that you take on my brother case I would take it as it was the only one and the best one for my brother. I would deeply appreciate if you take my family in consideration when giving the sentence in my brother's case so my family could continue as a regular family in the Dominican society. If ever need to address any concern directly to me, I can be reach at my job at (718) 828-6311 or (718) 320-2821 from Monday to Friday from 8:30 am to 6:30 pm, and sometimes Saturday from 9:00am to 3:30pm. Please complete my family, make my family whole again.

Sincerely,  
YOVANNI GARCIA

# **EXHIBIT F**

To Whom It May Concern:

I've known Kendy Hernandez for a long time his family is very hard working.  
I've always considered Kendy to be like the son I've never had. Kendy is a very helpful person who has time and time again proven to be trust worthy and noble.

Sincerely

Rosa Mateo

A handwritten signature in cursive script that reads "Rosa Mateo". The signature is written in dark ink and is positioned below the printed name.



# **EXHIBIT G**

A quien pueda interesar:

yo Carla Tennet Viro en el 3603 3rd ave # 7-D  
mi Telefono es 347-297-6792.

La presente es para confirmar que conosco a Kendy Hernandez  
Por almenos 7 años.

Kendy y toda su familia son muy buenas personas  
a las que aprecio mucho, Pues son personas que  
siempre estan dispuestas a ayudar a quien lo necesite  
Kendy es muy buen hijo y muy buen Padre Por favor  
ayudenos con este caso. Hay una madre y hijos  
hermanos familiares y amigos esperando la  
llegada de Kendy Hernandez

Por Favor el merece un Segundo chance  
nosotras sus familiares y amigos prometemos  
que el no se vuelva a meterse en problemas

Gracias Por su Comprension:

Carla Tennet.

Carla Tennet

[Translation]

7/28/08

To Whom It May Concern:

I, Carla Tennet Vivo, at 3603 3<sup>rd</sup> Ave. #7-D. My telephone is 347-297-6792.

The present letter is to confirm that I know Kendy Hernandez for at least 7 years.

Kendy and all his family are very good people who I appreciate a lot. They are people who are always willing to help whoever needs it. Kendy is a very good boy and a very good father.

Please help us with this case. There is a mother, 4 children, familial brothers and friends waiting for the arrival of Kendy Hernandez.

Please, he deserves a second chance. We, his family and friends, promise that he will not again become involved in problems.

Thank you for your understanding.

Carla Tennet

[Signature]

# **EXHIBIT H**

July 22, 2008

To Whom It May Concern:

I am writing this letter in reference of Kendey Hernandez. I am asking you to please give this young boy a chance to be free, because I am also a mother and I have suffer so much for my family and I know how much my dear friend, Maria Rodriguez mother of Kendy Hernandez is suffering for her son. I know this family very well for more than 10 years. He is a good young men, he is very proper and courteous with his neighbors.

I'm a Christian lady and I'm asking you please give this child a chance to reform his ways and become a men of good.

I hope this letter get to your heart and help my dear friend and have her son back

Thanks in advance and may God bless you always

Ana Vazquez



# **EXHIBIT I**

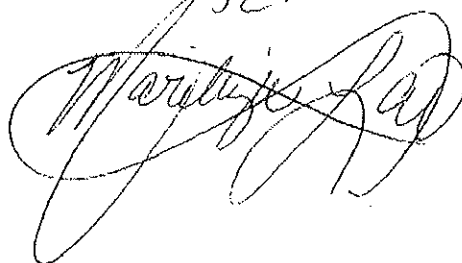
To whom it may concern:

I Mariliza Leo Live at 3603 3rd ave #8-B. Bronx  
my Telephone is 646 243 8056.

I know Kerny Hernandez For about 9 yrs. I know Kerny's Family for many years they all well educated and they very good people who always have a smile for every one. I remember one day I was coming from the Super market with many bags and pushing a stroller, back then he was about 14 years old and he asked me if a need it help I look at him and said yes please he grab my bags and walked to my house after that day he introduce me to his family and we all became friends.

I Love Kerny and my childrens always asked for him and I never answer because we all know that Kerny is a good person. I hope he gets another chance in life because he is one of them who deserve a Second chance in life. Please help us we Promise he will never get in trouble again.

Thank you  
sc.



# **EXHIBIT J**



7/29/08

To whom it May Concern:

My name is Miguelina  
Have a Beauty Salon at  
485 E 180 St. My tel. is  
(718) 561-8977. I'm friend of  
maria and know Kordy for  
a long time, our kids used to  
play together. Growing up he  
was a good kid and became  
a great man, son, and father.  
I am here please that you  
make the right choose so  
he can <sup>make</sup> ~~make~~ his own  
discern in life.

Sincerely,

Miguelina Brito

# **EXHIBIT K**

July 28, 2008

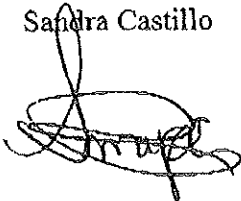
Honorable Denise L. Cole  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Dear Honorable Judge Cole:

I Sandra Castillo, in present certify that I know Mr. Kendy Hernandez for over three year prior to his incarceration. He is a very good person. He is respectful to others. He and his family have always demonstrated to be worthy people. He has had no problems with the community. His mother is known to be a very hard working lady. Any additional questions feel free to contact me at 718-537-3823.

Sincerely,

Sandra Castillo

A handwritten signature in black ink, appearing to read 'Sandra Castillo', with a large, stylized initial 'S'.

# **EXHIBIT L**

July 30, 2008

Honorable Denise L. Cole  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Dear Honorable Judge Cole,

RE: KENDIN HERNANDEZ

I Kerry Liza Duran have known Kendin and his family for a little over 5 years; I moved up here from Florida with my children. I have no family here. Kendin and his family have always extended a helping hand. They have demonstrated courtesy and respect. Kendin has been an asset to the family. He has also walked with us ensuring our safety home or to a taxi on days that have seemed unsafe. Kendin has never shown to be a difficult individual or have an aggressive behavior nor has he ever shown disrespect to me and my family. I humbly ask that his sentence be reconsidered. For any additional questions or concerns, feel free to contact me at 917-549-9005

Sincerely,



Kerry Liza Duran  
Caseworker  
City OF NY -HRA

KLD

# **EXHIBIT M**

July 27, 2008

Honorable Denise L. Cole  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Lina Nuñez  
1309 Washington Ave. Apt. 14F  
Bronx, NY 10456

Dear Honorable Judge Cole:

Hello, my name is Lina Nuñez; a friend of Kendy Hernandez's family for over 10 years. I have watched him grow and grow up into a nice young man. He has always shown respect for others. He has worked hard for something he wants. He is very good to his family and friends. He is also known to be very giving to his family and friends. I ask that you please take this matter into consideration. If ever needed, please contact me at 718-588-0346.

Sincerely, *Lina Nuñez*

Lina Nuñez

# **EXHIBIT N**



To Whom It May Concern:

My name is Amy Guzman,  
I am friends with the  
Hernandez Family for a long  
time. I have known Kenny  
for a long time, we have  
even ~~live~~ lived together. He is  
a family man and a hard  
working one. We need him  
and miss him. Please make  
a good judgment and let  
him come home.

Sincerely,  
Amy P. Guzman.

# **EXHIBIT O**

[Translation]

July 22, 2008

To Whom It May Concern:

I, Lurgen Yadira Guzman, through the present means do state that I know the young man Kendy Hernandez since the year 2001. This makes me state that he has been an educated young man of good morales (sic) and a very good boy. I have maintained a very good friendship with his mother, as a result of which I state that she has provided him with a very good family base.

Sincerely,


Lurgen Yadira Guzman  
2074 Wallace Avenue Apt. 607  
Bronx, New York 10462

Julio 22, 2008

A quien Pueda Interesar:

Yo Lurgen Yadira Guzman a través de las presentes líneas hago constar que conozco al joven Kendy Hernández desde el año 2001. Lo cual me hace constar que ha sido un joven educado, de buenos modales y un muy buen hijo. He mantenido una muy buena amistad con su madre la cual me consta que le ha inculcado una muy buena base familiar.

Sinceramente,

  
Lurgen Yadira Guzman  
2074 Wallace Avenue Apt. 607  
Bronx, New York 10462

# **EXHIBIT P**

7-29-08

To whom It may concern.

My name is Caermen Peña.  
I live at 1821 University Ave apt  
3B my telephone (646) 333-2605.  
I am a friend of maria Heencke  
and know her kids since  
they were in school. And hang  
out with my kids all the time.  
Kendy was well educated  
and evenly helpful.

Sincerely,

Caermen Peña